THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.27546 of 2005

Date:27.12.2005

Smt.U.Kalyani

--------PETITIONER

Vice-Chairman & Managing Director and another.

---------RESPONDENTS

ORDER:

The petitioner is employed as a Senior Assistant in the Sports Authority of Andhra Pradesh, the first respondent herein. Through an order, dated 01.05.2003, the first respondent sanctioned an incentive increment to the petitioner in recognition of her service in the National Games. Thereafter, the first respondent has withdrawn the increment through proceedings, dated 15.12.2005. The petitioner challenges the same, mainly contending that she was not put on notice and that the first respondent took the decision on the basis of the directions issued by the second respondent.

The learned counsel for the petitioner submits that it is the fundamental requirement of law that the petitioner must have been put on notice, before passing the impugned order, detrimental to her interest. He contends that if the respondents were of the view that the petitioner was not entitled to be extended the benefit of any increment, they were under obligation to point out the reasons, before it was withdrawn.

The learned standing counsel for the first respondent, who took notice at the stage of admission, had obtained instructions and placed the relevant record before this Court. He contends that the grant of increment in favour of the petitioner was contrary to Rule 29(4) of the Sports Authority of Andhra Pradesh Rules (for short 'the Rules') and on noticing the same, the second respondent issued directions to the first respondent to correct the anomaly and through the impugned order, the

increment which was granted to the petitioner contrary to the Rules, was withdrawn. He has also pointed out that an order of cancellation of increment was served on the petitioner on 20.06.2005 and thereafter, the impugned order came to be passed, after taking into account the representation submitted by the petitioner.

The short question that falls for consideration in this writ petition is, as to whether the first respondent followed the prescribed procedure, before passing the impugned order.

It is true that Rule 29(4) of the Rules mandates that an increment shall be granted to an employee only on the basis of recommendation of a Selection Committee and that the increment in favour of the petitioner was sanctioned on a recommendation made by the Financial Advisor. Even assuming that there was any infirmity in the order, dated 15.12.2005, through which, the petitioner was extended the benefit of an incentive increment, the first respondent was under obligation to issue notice to the petitioner, pointing out the reasons, on account of which, he proposes to withdraw the increment. The record discloses that much correspondence ensued between respondents 1 and 2. However, the petitioner, who is the immediately affected person, was never put on notice. It is rather curious that the first respondent passed two orders, which have the same effect. Initially, he passed an order, dated 20.06.2005, cancelling the increment issued to the petitioner reducing her scale of pay. By referring to the same old proceedings, he passed another order, dated 15.12.2005, which has the same effect. The whole episode discloses that the matter was dealt with in an imperfect and superfluous manner. The respondents ought to have exhibited little more care at every stage. The impugned order cannot be sustained on the sole ground that it was not preceded by any show cause notice to the petitioner.

Hence, the writ petition is allowed and the order impugned is set aside. It is, however, made clear that it shall be open to the respondents to take appropriate action in the matter of withdrawal or retention of the increment in favour of the petitioner, duly following the procedure prescribed by law.

27.12.2005

Note: Issue C.C. in three days

(B/o)

kdl